IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 6645 of 2005

VIDHYA DEVI
V/S
INDER PAREEK & ORS.

Mr. GR GOYAL, for the appellant / petitioner

Mr. RK BOHRA for Mr. NL JOSHI, for the respondent

Date of Order : 30.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

The matter comes up for consideration of stay. A perusal of the impugned order dt. 5.9.2005 shows, that thereby the petitioner's application for re-opening his right to file written statement which right was closed vide order dt. 9.8.2004 had been dismissed. Admittedly the order dt. 9.8.2004 is not under challenge.

Copy of the order dt. 9.8.2004 has also not been produced, to show, as to in what circumstances the right to file reply was closed. However, from the submissions made by the learned counsel for the petitioner, it transpires that the right was closed on account of written statement having not been filed within the legally permissible time.

What is significant to note is, that even with the application for reopening the right to file written statement, to show bonafides, the desired written statement has not been filed, and in the garb of application for reopening the right to file written statement, the matter remained pending for another more than one year, and in view of the interim stay of this Court the matter has still remained pending for another two years. This is one aspect of the matter.

The other aspect of the matter is that at my request the learned counsel showed to me the original plaint, and a perusal thereof shows that it is a suit for specific performance, filed by the plaintiff against the petitioner, alleging interalia to have executed agreement to sale, and then to have sold away the property to other defendants number 2 and 3. It is informed by the learned counsel for the plaintiff, that the purchasers defendants have already filed written statement, and they are contesting, and that the real lis, is in substance, in between the plaintiff, and the purchasers.

Considering all these circumstances I asked the learned counsel for the petitioner, as to whether the petitioner is even now prepared to file written statement subject to payment of heavy cost of Rs. 20,000/-, to which learned counsel for the petitioner declined.

In that view of the matter I do not find any ground to interfere with the impugned order. At the request of the learned counsel for the parties, though the writ petition comes up for consideration of stay petition, the writ petition itself is dismissed as above.

(N P GUPTA),J.

/Sushil/